

CITY OF NEWTON  
IN BOARD OF ALDERMEN  
FINANCE COMMITTEE REPORT  
MONDAY, AUGUST 4, 2003

Finance members present: Ald. Coletti (Chair), Gerst, Ciccone, Stewart, Parker, Schnipper and Lipof (1 vacancy)

Zoning & Planning members present: Ald. Yates (Chair), Lennon, Gentile, Mansfield and Lappin

Zoning & Planning members absent: Ald. Johnson, Sangiolo and Baker

Ad Hoc Community Preservation members present: Ald. Linsky (Vice-Chair), Merrill, Yates and Lappin (1 vacancy)

Ad Hoc members absent: Ald. Sangiolo (Chair), Basham and Baker

Also Present: Martha Horn (Conservation Planner), Attorney Howard Levine, Jeffrey Sacks (Chair, Community Preservation Committee), Donnalyn Kahn (Assistant City Solicitor), Acting Chief Joe LaCroix (Fire), David Naparstek (Health Commissioner), Maria Bianchi Rosen (Constable), Attorney Stuart Johnson

***CHAIRMAN'S NOTE: The Committee convened at approximately 8:40 p.m. this evening. Due to the resignation of Ald. Bullwinkle, the Finance Committee will have one vacancy until after the November election. The first order of business was a joint meeting with the Zoning & Planning Committee to review the following items which were not admitting of delay:***

**ITEM ON NO PREVIOUS DOCKET**

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

#317-03      HIS HONOR THE MAYOR requesting acceptance of an authorization to expend the sum of \$149,500, received as a grant from the Massachusetts Department of Environmental Protection for the Hammond Pond Stormwater Project.

**ACTION:**      **ZONING & PLANNING APPROVED 5-0**  
**FINANCE APPROVED 5-0-1 (Coletti abstaining; Parker not voting)**

**ITEM ON NO PREVIOUS DOCKET**

**REFERRED TO ZONING & PLANNING AND FINANCE COMMITTEES**

#317-03(2) HIS HONOR THE MAYOR requesting, under the provisions of Massachusetts General Laws, Ch.40, Sec.14 and Newton Revised Ordinances Sec. 22-20c, acceptance of an easement for the installation and maintenance of stormwater facilities associated with the Hammond Pond Stormwater Project.

**ACTION:** **ZONING & PLANNING APPROVED 5-0**  
**FINANCE APPROVED 5-0-1 (Coletti abstaining; Parker not voting)**

**NOTE:** The Committee was joined this evening by Martha Horn, Conservation Planner, representatives from the Conservation Commission, and Howard Levine, attorney for the owners of various properties located behind the Chestnut Hill Mall.

The Committee reviewed the extensive backup on this information that was attached to this evening's agenda. This included a letter from the Department of Environmental Protection, signed back in January of this year, indicating that the City had secured funding for the Hammond Pond Stormwater Project. The City was informed of the scope of services. The operation and maintenance plans requires the implementation of a treatment system to ensure that water that is being discharged into Hammond Pond is safe for the environment. Basically, this is a reimbursement grant, which means that the City must put in some additional money.

Attachment B contained a budget. 60 % of the funds, \$149,500 is coming from the DEP grant. There is a non-federal funds match in the amount of \$99,757 (which covers the remaining 40% of the funding for this project). The City also intends to provide over \$28,000 in additional work (excavation, paving, sweeping, catch basin cleaning, and drainage of the system once it is installed).

The Committees reviewed all written information provided, which also included a letter from State Representative Ruth Balser. This was a letter dated April 29, 2002 which talks about her support for this project and her actions taken in order to secure some of the funding from the DEP. There was also a letter from the MDC which explains the importance of this project. The letter indicates that the owner of Hammond Pond (the MDC) is very much interested in the installation of a management plan for the cleanup and stormwater improvements for Hammond Pond. They indicate that the MDC has been concerned about the ecological health and they are looking forward to this work.

The only concern that some of the members of the Committee had was that some of the analysis to be performed as part of the installation process. There is a need for a determination about some of the pre-existing conditions within the parking area (on the private property) relating to underground fuel tanks and oil leaks and spills which happened on the site of some of those areas more than ten years ago. There was a question about whether an analysis should not be done and some monitoring wells and

test boring be done along the edge of the waterfront bank to ensure that there is no migration of oil contamination into the vegetation area by Hammond Pond.

There were also some questions about the quantity and quality of the oil/water separators that are currently in use in the parking area at the Chestnut Hill Mall to ensure that stormwater and runoff is properly treated before being discharged into Hammond Pond. It was the understanding that there will be three parking spaces given up for the purpose of installing this system. There will be some additional analysis of the mentioned catchbasins.

Having reached some consensus that this was a good plan that still has some work to be done, the Finance Committee voted 5-0-1, with Ald. Coletti abstaining and Ald. Parker not voting, to approve each of these two items.

The Zoning & Planning Committee voted 5-0 to approve these items.

***CHAIRMAN'S NOTE:*** *The Finance Committee then met jointly with the Ad Hoc Community Preservation Committee to review the following item which was also not admitting of delay (for further details of this evening's discussion, please refer to Ad Hoc Community Preservation Committee Report 8/4/03):*

**REFERRED TO AD HOC COMM. PRES. AND FINANCE COMMITTEES**

#313-03      **COMMUNITY PRESERVATION COMMITTEE** recommending that the sum of \$211,936 be appropriated from the Community Preservation Fund for purposes of funding a deferred loan for the creation of **10** units for low-income seniors at 45 Pelham Street (Pelham House).

**ACTION:**      **AD HOC COMM. PRES. APPROVED 3-0-1 (Linsky Abstaining)**  
**FINANCE APPROVED 7-0 SUBJECT TO SECOND CALL**

**NOTE:**      The Committees were joined by representatives from the Community Preservation Committee. They described that the applicant, Co-operative living of Newton, requests \$211,936 for what is being considered a "forgivable loan" for the creation of 10 (not 11) community housing at 45 Pelham Street (the Pelham House). The applicant is a non-profit organization. This project would convert the building into ten cooperative living units for low-income seniors. The total estimated budget for acquisition and renovation is \$1.9 million.

The funding requested through this item is for exterior renovations and site work (includes a new roof, removal of aluminum siding, restoration of original siding, foundation work, repairs to the garage, landscaping and other work). The City has committed an additional \$550,000 of Community Development Block Grant money and there is also a financing commitment from Auburndale Cooperative Bank for \$302,000. There is also some additional money (approximately \$1.5 million) in loans and grants. This project is almost fully funded from outside sources.

**ACTION: APPROVED 6-0 (Parker not voting)**

**NOTE:** Assistant City Solicitor Donnalyn Kahn presented this item to the Committee. She indicated that there was a retirement in the Law Department and there was not enough money within the budget in order to cover the vacation day buy back. Therefore, this request was to transfer \$2,000 from the telephone account into administrative salaries.

The Committee supported this item, and voted 6-0, with Ald. Parker not voting, to approve this request.

#308-03      HIS HONOR THE MAYOR requesting that the FY04 Police Department operating budget be amended in order to create a temporary position to be filled by Officer James Caira. Officer Caira will be assigned to the City Treasurer's Office in order to assist with parking violation hearings and other administrative duties related to parking enforcement.

**ACTION:**      **APPROVED 6-0 (Parker not voting)**

#309-03      HIS HONOR THE MAYOR requesting an appropriation in the amount of \$10,000 in order to settle a claim brought against the City by Officer James Caira before the Massachusetts Commission against Discrimination.

**ACTION:**      **APPROVED AS AMENDED – AUTHORIZATION FOR SETTLEMENT ONLY – NO APPROPRIATION NECESSARY 6-0-1 (Ciccone abstaining)**

**NOTE:** Donnalyn Kahn explained the settlement that was reached with Officer Caira. Officer Caira suffered a stroke and fell at his home and was actually put on light duty for some time at the Police Department. Unfortunately, there is no ability for the City to have Officers assigned to long-term light duty. Officer Caira has applied for disability retirement. In the meantime (until his retirement becomes effective), it is important for him to remain employed with the Police Department (according to the requirements) so that he does not lose his status as a Police Officer. The concern that the Police Department has is that they are short one street officer, and the Police Chief is interested in filling that position.

In order to preserve Officer Caira's employment with the Police Department for these purposes, and also to allow for the hiring of an additional officer, the Chief has agreed to create a temporary position (with approval of the Board of Aldermen) in the Treasurer's office.

The Law Department concurs that this is the best way to resolve this issue. The discrimination suit was filed in 1999 by Officer Caira with the MCAD. After discussions and negotiations regarding this suit, the City is prepared to settle this case in the amount of \$10,000.

Donnalyn Kahn explained that, in regard to the settlement, there is some salary reimbursement involved. The bulk of the settlement amount is to pay for legal expenses associated with the claim. Officer Caira is unable to perform some of the duties required as a Police Officer due to physical limitations. He was partially paralyzed on the right side as a result of the stroke he suffered.

The Committee had no problem with supporting the settlement of this claim before it goes to trial. In the event that this claim is not resolved, Officer Caira would be able to file a civil suit against the City in Middlesex Superior Court.

With that understanding, the Committee voted 6-0, with Ald. Parker not voting, to approve item #308-03. The Committee then voted 6-0-1, with Ald. Ciccone abstaining and Ald. Parker not voting, to approve item #309-03. Ald. Ciccone indicated that he would abstain on the vote because he believes that the City should consider retaining Officer Caira to perform a combination of administrative Police Department duties at City Hall.

NOTE: FUNDING SOURCE TO BE CONFIRMED WITH COMPTROLLER – question as to whether settlement will be funded through Budget Reserve or the Judgements and Settlements account. The item will be placed on call if accurate funding sources are not received prior to the distribution of this report.

***CLERK'S NOTE:*** *Comptroller has indicated that, between the time that the Mayor docketed this request and the time of this Committee meeting, sufficient funds have been identified within the FY03 City Solicitor budget to fund this settlement through the Judgements and Settlements account. Therefore, the purpose of this item remains only to seek authorization to make settlement from that account.*

#310-03      HIS HONOR THE MAYOR acceptance of and authorization to expend the sum of \$5,000, received as a grant from the Massachusetts Emergency Management Agency. Said funds will allow the Fire Department to hire a contractor that will assist the Newton Local Emergency Planning Committee with formulating a hazard and risk analysis.

**ACTION:**      **APPROVED 7-0**

**NOTE:**      Acting Chief Joe LaCroix was present this evening. He indicated that the Fire Department, on behalf of the Newton Local Emergency Committee, has been awarded a planning grant from the Massachusetts Emergency Management Agency (MEMA). Newton is one of 19 communities that applied for this grant. The grant will secure a contract that will assist our group with hazard and risk analysis.

Without debate, the Committee voted 7-0 to approve this request.

**ITEM ON NO PREVIOUS DOCKET**

#318-03      HIS HONOR THE MAYOR requesting an appropriation in the amount of \$4,600 from FY03 Budget Reserve for the purpose of supplementing the FY03 Health Department salary account. This appropriation will be used to fund the special leave buy back for a nurse who unexpectedly retired at the end of the fiscal year. This will also provide funding for the salary increases for two nurses who received recent certification and will, accordingly, receive higher salaries than budgeted during the year.

**ACTION:**      **APPROVED 7-0**

**NOTE:**          David Naparstek, Health Commissioner, was present this evening. A letter dated July 14<sup>th</sup> was submitted to the Committee. The request is for \$4,600 to supplement the salary account. In prior years, the Health Department has turned back unused salary funds from vacancies. In FY03, the Department did not have vacancies, therefore, the June unexpected retirement of one school nurse, along with further certification of two nurses (which, according to contractual requirements, provides salary increases) has caused this deficit.

Without debate, the Committee voted 7-0 to approve this request.

Re-Appointment by His Honor the Mayor

#280-03      MARIA BIANCHI ROSEN re-appointed by His Honor the Mayor on May 29, 2003 as a CONSTABLE for the City of Newton. Said term of office to expire May 1, 2006. (60-day Board action date: 8/15/03)

**ACTION:**      **APPROVED 7-0**

**NOTE:**          Maria Bianchi Rosen was present this evening. She provided a copy of her required surety bond in the amount of \$5,000.

The Committee was pleased to see that Maria was being reappointed as a CONSTABLE, and, without debate, voted 7-0 to approve this item.

#92-03      STUART JOHNSON on behalf of MONTE J. WALLACE and ANNE H. WALLACE, Trs., requesting abatement of sewer betterment assessment for 256 CHESTNUT HILL ROAD, 02467 in the amount of \$7,198.43.

**ACTION:**      **HELD 7-0 (See Report)**

**NOTE:**          Stuart Johnson, attorney for Monte and Anne Wallace of 256 Chestnut Hill Road, was present this evening. He made a presentation to the Committee as to why his clients seek to have sewer betterments (frontage charges) for their three properties on Chestnut Hill Road (which are all currently served by septic systems) abated.

The Committee reviewed extensive information (attached to this evening's agenda) that was provided by the Assessing Department relative to how the ability to tie in to the City sewer affects the Wallace's property values. The information compiled showed that the septic systems, that have required a significant amount of pumping out over the last few years, are under tremendous burden and are, in fact, failing.

The City recently installed a sewer line for over \$250,000 in Chestnut Hill Road. It looks like the Wallaces will eventually need to tie in to the City sewer if and when their septic systems fail.

Mr. Johnson stated that, since the Wallaces do not believe that they need to tie in to the City sewer line, they should not have to pay the sewer frontage betterment charges at this time.

To Committee members, it appears clear that the property value has seen an increase as a result of the installation of the public sewer line. In the event that the houses are put up for sale, they would be in danger of failing Title V (septic system) testing, which would demonstrate the need to tie in to the City sewer system.

Mr. Johnson stated that he would confer with his clients and explain the context of this evening's discussion.

The Committee, after brief discussion, sought to ask questions of Associate City Solicitor Gayle Smalley and the Public Works Department before taking final action on this request. Therefore, the Committee voted 7-0 to hold this item. The Committee will discuss this item again on September 22<sup>nd</sup>.

All other items were held. The Committee adjourned at approximately 10:40 p.m.

Respectfully Submitted,

Paul E. Coletti, Chairman